Elk Township Planning and Zoning Board Meeting

Regular Business Meeting February 20, 2013

Minutes

Call to Order: The Board Chairman called the meeting to order at 7:35pm.

Roll Call:

Present: Mayor Phil Barbaro, Bill Carter, David McCreery, Ed McKeever, Chuck Nicholson, Eugene Shoultz, Patrick Spring, Jeanne White, Frank Goss & Jay Hughes arrived at 7:37pm.

Also present were the Board's professionals: Leah Furey Bruder, Planner-Bach Associates, Corey Gaskill, Engineer-Fralinger Engineering, and Joan Adams, Solicitor, Adams & Adams.

Absent: Rich Tondo

Open Public Meeting Act: read by the Board Secretary

Announcements:

• Notice to Public and Applicants: Board policy is no new business will commence after 10:30 pm and all testimony will stop at 11:00 pm, except for individuals wishing to speak during the general public session.

General

Resolutions:

2013-10: resolution of the Elk Township Planning Board granting minor subdivision and variance for diminished front yard for property commonly known as 121 Buck Road, block 72, lot 3 to applicant, Stephen Ranson.

Mr. Shoultz moved to adopt resolution 2013-10, Seconded by Mrs. White.

Roll Call:

In favor: Barbaro, McCreery, Nicholson, Shoultz, Goss Against: None Abstain: None 5-0-0`

2013-11: a resolution of the Elk Township Combined Planning/Zoning Board authorizing John G. Hoffman, Esquire, to provide professional services as an interim conflict solicitor for an application brought by the Diocese of Camden

Mayor Barbaro moved to adopt resolution 2013-11, Seconded by Mr. McCreery.

Roll Call:

In favor: Barbaro, Carter, McCreery, McKeever, Nicholson, Shoultz, Spring, White, Hughes

Against: None Abstain: None 9-0-0`

> Approval of minutes:

- November 14, 2012
- December 19, 2012
- January 16, 2013

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Mr. Shoultz moved to approve the minutes of November 14, 2012, December 19, 2012 and January 16, 2013. Seconded by Mr. Goss.

Mr. Spring & Mr. Hughes abstained from the November 14, 2012 & December 19, 2012 minutes; Mrs. White & Mr. Carter abstained from the December 19, 2012minutes; Mr. McCreery & Mr. McKeever abstained from November 14, 2012 and Mayor Barbaro & Ed McKeever abstained from January 16, 2013 minutes. With all other members in favor, *the motion was carried.*

Mrs. Adams gave the Oath of Office to Ed McKeever and Phil Barbaro for the 2013 year.

➢ Old Business: None

➤ New Business:

1) Completeness & Public hearing, Bulk variance fence Application #, ZB-12-08, Block 29, lot 12, 233 Unionville Road, Applicants: Tony & Heidi Creta

Chairman Nicholson recused himself as his employer does business with Mr. Creta's Company. Mr. McCreery, Zoning Officer, also recused himself as Mr. Creta was a former supervisor. The meeting was turned over to Vice Chairman Carter.

Tony & Heidi Creta were sworn in by Board Attorney, Joan Adams.

Tony Creta, 233 Unionville Rd, Glassboro Heidi Creta, 233 Unionville Rd., Glassboro

Board Planner, Leah Bruder reviewed her letter of December 10, 2012, beginning on page 2. Mrs. Bruder summarized the application is for a fence. The applicant would like to install a six-foot fence running the length of the west side of their property to the roadway, which is a county road, where 4 feet is permitted by ordinance.

The applicant requests waivers from the following submission checklist items as outlined in the Planner's letter of December 10, 2012:

Item #8 – requires copies and certifications of all outside agency approvals *Waiver is recommended*.

Item #9 requires the submission of a site plan.

Waiver is recommended.

Item #11 – requires a current or recertified property survey. The applicant did provide a survey, but it does not reflect the improvements currently on the property.

Conditional Waiver recommended. If approved, the applicant will provide a current survey of the front portion of the property. The survey must show the fence and roadway sight lines.

Item #25 – requires that the plan be prepared at a maximum scale of 1"=50' Waiver is recommended

Item #35 – requires the applicant to submit a zoning schedule showing the proposal's compliance or non-compliance with the applicable bulk and area standards in the RE zone.

Conditional Waiver recommended. If approved, can be added to revised plan.

Item #40 - requires the location, design and dimensions of each new and existing structure and wooded area.

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Waiver recommended. The applicant should provide testimony whether any tree removal will be required.

Item #41 – requires the location of existing wells and septic systems and distances between them and on adjacent properties.

Waiver recommended

Item #43 – requires the existing and proposed use for all buildings and structures. *Waiver recommended*

Item #53 – requires any structures of historic significance on or within 200 feet *Waiver is recommended*

Item #55 – requires contours at 20 foot intervals for the entire tract and within 100 feet. *Waiver is recommended, Engineer had no objection.*

Item #67 – requires the applicant to provide results and locations of percolation tests and borings. *Waiver is recommended*

Item #73 – provide either a Letter of Interpretation (LOI) from the NJDEP verifying whether or not there are wetlands on or in close proximity to the site, or a statement or verification from a NJ licensed Surveyor or Engineer that he has reviewed wetlands inventory maps, personally visited the site, and conducted a survey to verify that there are no wetlands on or in close proximity to the site.

Waiver is recommended. There does not appear to be any wetlands, but if there is, the applicant would need a permit to place the fence in wetlands.

Item #77 – requires the size, type, copy and location of all signs. Waiver is recommended

Mr Hughes inquired if there was a fence setback requirement. Mrs. Bruder responded there is no specific setback but, the fence has to be located on your property.

Mayor Barbaro commented that the map provided does not reflect what is currently on the property (house is in a different location, a shed and garage are not shown) and was the board permitted to move forward with the application?

Mrs. Adams responded that one of the board's submission requirements is a survey that's dated and certified within one year of the application. The reason for such a requirement is so the board would have an accurate understanding of what's on the lot. If the board grants the waiver, then a decision is made to move forward with the map submitted.

Mr. Creta did provide a portion of a plot plan that shows the current location of their home in relation to the roadway. For the file record, it was marked as applicants #1. Mrs. Bruder added that this exhibit indicates the house is set back 299 feet from the road right away. It the opinion of Vice Chairman Carter that it would be appropriate to require a current survey of the front portion of the lot as a condition of any approval granted. Mrs. White clarified that a current photo of the parcel would be provided and Mrs. Bruder added the current survey would show roadway sight lines.

Mr. Creta confirmed that the fence would not encroach in the county road right of way.

Mr. Spring moved to grant the waivers as discussed and deem the application complete. Seconded by Mr. Goss.

Roll call:

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In favor: Barbaro, Carter, McKeever, Shoultz, Spring, White, Hughes, Goss Against: 8-0-0`

Mrs. Adams swore in the Board's professionals for 2013, Leah Bruder and Corey Gaskill.

Public Hearing:

➤ Bulk variance fence Application #, ZB-12-08 Block 29, lot 12, 233 Unionville Road, Applicants: Tony & Heidi Creta

Mr. Creta testified that he is requesting a variance to permit a 6 foot fence in his front side yard from his house to the roadway (approximately 280 feet) for privacy and also because he is dealing with an ongoing dispute with a neighbor. He added should this neighbor ever move he would remove the fence.

There is an existing line of trees between the neighbors. Mr. Creta provided a photo of the fence type and it was marked as applicant #2 for the file record. There will be no removal of trees in the front portion where the variance is being requested.

Leah Bruder referred to her letter of December 10, 2012. The variance is requested for a 6 foot fence in the front yard where 4 feet is permitted by ordinance 96-80.1.B. Fences. She referred to page 4 and briefly commented on each of the following:

- 1) Fence type. The applicant has provided a photo of the proposed fence.
- 2) Variance. Explains why a variance is required.
- 3) County Road and Sight Lines. The applicant has agreed not to install the fence within the County right of way.
- 4) Accessory structure. The applicant confirmed that the accessory structure on his property is being used for personal use.

Public Portion, Creta Application:

Mr. Shoultz moved to open to the public, seconded by Mrs. White. With all members in favor, the motion was carried.

Edward Mick, 239 Unionville Road

Mr. Mick was sworn in by Mrs. Adams. Mr. Mick asked the board not to grant any variances at this time as there is an ongoing lawsuit that includes the Planning/Zoning Board. The suit was filed over two weeks ago, and a Torte claim was filed over 6 months ago.

Mrs. Adams responded that the planning board has not been served a Tort notice but doesn't know if the Township was or not and therefore she cannot comment on it. She added there is a general body of law on how to proceed once a suit has begun, however she has no notice of any suit and she advised the board to simply proceed with the application before them and if she is wrong, a superior court judge would let her know.

Mr. Shoultz moved to close to the public, seconded by Mrs. White. With all members in favor, the motion was carried.

Mayor Barbaro confirmed with the Solicitor that the granting or denying of a variance does not set any precedence. Mrs. Adams stated that was correct and that a variance of this nature is solely based on the specific facts presented to the board as part of this application and does not create any precedence for any other property owner in the township.

Mrs. White moved to grant a C1 variance to permit a fence 6 feet in height in the front yard condition upon the applicant providing a current survey of the front of the lot which includes the sight lines and

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the submission of current photo(s) of the lot that shows the location of the house and other structures & the plan is to be reviewed by the board engineer before a zoning permit can be issued. Seconded by Mr. Goss.

Roll Call:

Voting in favor: Barbaro, Carter, McKeever, Shoultz, Spring, White, Hughes, Goss Against: 8-0-0

Chairman Nicholson and Mr. McCreery returned to the Board.

2) Completeness & Public Hearing, Minor Subdivision, Application #SD-12-04, block 147, lot 1, 521, Fifth Avenue, Applicant, John Melleady

The applicant was represented by Attorney Gary Thompson. Mr. Thompson summarized the minor subdivision will create two new lots that in the future would have two new homes on them.

John Melleady, 101 Idle Lake Rd, Franklinville, NJ was sworn in by Mrs. Adams.

Mrs. Bruder reviewed her letter of December 19, 2012 regarding the following waiver requests:

Item #17 – requires a key map with zoning district boundaries. *Conditional waiver*. Will comply as a condition of approval and revise the plan.

Item #19 – requires proposed street names and new lot numbers approved by the tax assessor. *Conditional waiver*. Will comply as a condition of approval and revised the plan.

Item #33 – informational item - requires a statement and demonstration *Applicant acknowledges the requirement*.

Item # 41 – location of existing wells and septic systems and distances between them and on adjacent properties.

Applicant did provide the location for the existing house, but requests a waiver from providing them from all homes located across the existing streets/right-of-way. (applicant states no well will be less than 100 feet from the septic)

Waiver recommended. (GCHD has jurisdiction)

Item #49 – requires a location of existing tree masses with general size and species. (tree mass has been provided, waiver is for species. Application is to create the lots; no construction is proposed at this time.) Waiver recommended.

Item #50 – Requires a Tree Protection plan showing the limits of clearing. (Application is to create the lots; nothing will be constructed at this time.) *Waiver recommended*.

Item # 55 – requires contours at 20 foot intervals for the entire tract within 100 feet.

(Application is to create the lots; no construction is proposed at this time.)

Waiver recommended as they will provide individual lot grading plans prior to building. Board Engineer agreed.

Item # 57 – requires grading plan. Application is to create the lots; no construction proposed at this time.) Waiver recommended as they will provide individual lot grading plans prior to building. Board Engineer agreed and added plans must show the clearing limits per approved subdivision plan, applicant agreed.

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Item # 58 – requires a soil erosion and sediment control plan. (Application is to create the lots; nothing will be constructed at this time.)

Waiver recommended. Board Engineer agreed. (Gloucester County Soil Conservation District has jurisdiction)

Waiver recommended. Board Engineer agreed.

Item # 75 – requires a Utility Plan. (Application is to create the lots; nothing will be constructed at this time.)

Waiver recommended. Board Engineer agreed.

Item #83 – requires curb opening details. (Application is to create the lots; nothing will be constructed at this time.)

Waiver recommended. Board Engineer agreed.

Mr. Gaskill referred to his review letter of January 17, 2013

Item #12 – Certification and monumentation required by Map filing Law. Certification to be corrected from Planning Board Engineer to "Municipal Engineer." *Conditional Waiver, agree to correct on revised plan.*

Item # 59 – Location of soil borings to determine soil suitability and indication of whether topsoil will be transported to the site and/or removed and transported outside the municipal boundary.

Waiver. Applicant does not anticipate the removal of any topsoil.

Item #67 – If on site sewerage disposal is required (septic system), the results and location of all percolation tests and test borings.

Conditional waiver (jurisdiction of the GCHD)

Mr. Melleady added he has no intention to remove trees unless absolutely necessary, for example to complete the septics or required grading plan(s). If trees need to be moved, he would be willing to replant trees in another location if necessary. The applicant & engineer agreed that would be a decision left up to the municipal engineer at the time of grading plan approval.

Mr. Nicholson moved to grant the waivers as discussed, deeming the application complete. Seconded by Mr. Spring.

Roll Call:

Voting in favor: Barbaro, Carter, McCreery, McKeever, Nicholson, Shoultz, Spring, White, Hughes,

Goss

Against: Abstain: 9-0-0`

> Public Hearing, Minor Subdivision, Application #SD-12-04, block 147, lot 521, Fifth Avenue, Applicant, John Melleady

Mr. Thompson explained these lots are corner lots, as Fourth Avenue is unimproved. The current plan neglects to include the required 30 foot front yard setback to the unimproved Fourth Avenue, and the amended plans will provide that 30 foot setback (instead of 15 feet) therefore no variances would be required.

Mr. Melleady testified that it is his intention to construct single family homes on these new lots sometime in the future and understands individual grading plans will be required.

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Mrs. Bruder referred to the balance of her letter dated, December 19, 2012, comment items:

- 1) Minor Subdivision she confirmed that the application is a minor subdivision per the ordinance definition, as the initial application submitted was for a major subdivision but was then amended to a minor. This proposal includes the creation of two new lots in addition to the one remainder lot, therefore meeting the definition of a "minor" subdivision.
- 2) Shed encroachment There is one house on an adjacent lot (lot 2) that has a shed located on Mr. Melleady's new lot, lot 1.01. Will this shed be relocated or removed?

 Mr. Thompson responded they will contact the neighbor to relocate the shed, correcting the encroachment. Mr. Thompson submitted an aerial photo that was labeled as applicants #1.
- 3) Frontage on improved street the applicant should provide information regarding access to proposed lots.

Applicant agrees to have both driveways located off of an improved street. Lot 1.01 driveway will be off of Douglas Street, and lot 1.02 driveway will be off of Dunbar Blvd.

Further, the applicant agrees to include a deed restriction that these lots will not have any access off of Fourth Avenue. Additionally, the applicant is satisfied that there is adequate room that the driveways will not cross over the proposed septic fields.

- 4) Environmental Assessment applicant should address the past uses of the site (ex: farm use). There is no indication that the parcel was farmed in the past 30-40 years based on the tree caliper and tree height. Also there was no evidence left on the parcel of any farming activity, such as, farm equipment.
- 5) Grading and Drainage *Applicant will address at the time of construction.*
- 6) Septic Feasibility the applicant will be required to obtain approvals for septic systems and wells from the Gloucester County Health Department.

 Applicant acknowledges the requirement and has provided a soil evaluation.
- 7) Landscaping installation of street trees along property frontage. Where existing vegetation will be retained, the applicant may demonstrate that additional street trees are not needed. Mr. Thompson added the parcel is heavily wooded and will leave it that way along all of Fourth Avenue. The applicant will only remove trees along Douglas Street and Dunbar Blvd. as needed. At the time of grading plan approval, if the municipal engineer determines additional street trees are needed, the applicant agrees to install them.
- 8) Sidewalks address the need for sidewalks in the area.

 Applicant agrees to a deed restriction and in the event adjoining property owners install Sidewalk, they also agree to install them.
- 9) Location applicant to provide a printed aerial photograph for Board review. Complied and photo was labeled as applicant #1 for the file record.

Mrs. Bruder commented this is a conforming application and had no other comments.

Mr. Gaskill referred to the balance of his letter dated, January 17, 2013, comment items: Comment numbers 1 & 2 have already been discussed.

Item #3 – Chapter 86, stormwater regulation.

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If more than 1 acre of land is cleared or graded (all three lots combined), in accordance with Chapter 86, the use of storm water management measures may be required.

A condition of approval, that if the applicant proposes to clear more than one acre of the site (all three lots combined), they must return to the board for a review of the storm water management measure.

Item #4 – the legal description for lot 1.01 must be revised. Proposed lot 1.01 has six courses; the submitted legal description only has five.

Applicant agreed to correct.

Item #5 – Outside agency approvals are required.

Applicant agrees and acknowledges the requirements. To date they have not received Gloucester County Planning Board approval.

Mayor Barbaro moved to open to the public, seconded by Mr. Shoultz. With all members in favor, the motion was carried. With no comment from the public, Mr. Shoultz moved to close to the public, seconded by Mayor Barbaro. With all members in favor, the motion was carried.

Mr. Spring moved to grant the minor subdivision, seconded by Mr. McCreery. Roll Call:

Voting in favor: Barbaro, Carter, McCreery, McKeever, Nicholson, Shoultz, Spring, White, Hughes,

Goss

Against: Abstain:

9-0-0

3) Completeness Hearing, Use Variance Application #ZB-12-01, Block 170, lot 26, 283 Clayton Aura Road, Applicant, Christopher Chapman

Represented by attorney, William Ziegler of Holston, MacDonald, 66, Euclid Street, Woodbury, NJ Christopher Chapman 104 Garnet St. Mullica Hill, NJ was sworn in by Mrs. Adams. Board secretary confirmed that public notice was completed.

This application is for a "D" variance, which is heard by the Zoning Board of Adjustment therefore Mayor Barbaro and Committeemen Spring will recuse themselves.

Mr. Ziegler explained this application is to permit the parking of vehicles and equipment for a landscaping business, 7 vehicles and 2 pieces of equipment, in an area that will not be visible from public view. His office is located elsewhere. Mr. Ziegler is requesting a bifurcated application - should the board grant the variance a minor site plan would be submitted at a later stage as a condition of any "use" variance approval. Mr. Chapman originally submitted the application and recently brought on Mr. Ziegler to represent him.

Mrs. Bruder referred to her letter of May 29, 2012, page 2, regarding the following waiver requests:

Use Variance application, Page 3 - requires an existing conditions plan, proposed conditions plan & floor plan.

The applicant has provided a survey that shows the existing conditions & supplied a hand drawn sketch that shows certain proposed improvements. A Waiver is required since the plan does not provide all of the requirements for the proposed conditions plan as set forth on page 3. B. 1-15.

#1b Copy of completed submission checklist – none submitted and the following comments have been provided pertaining to a minor site plan:

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Item #8 – requires copies and certifications of all outside agency approvals

Waiver is recommended for purposes of a use variance hearing but will be revisited at the time of site plan.

Item #22 -required to submit a list of the applicable development standards for MD (Moderate Density) zone.

Complied- they are provided by planner in her review letter

Item #25 – requires that the plan be prepared at a maximum scale of 1"=50' *Waiver is recommended.*

Item #43 – requires the existing and proposed use for all buildings and structures.

Waiver is recommended for purposes of a use variance hearing but will be revisited at the time of site plan.

Item #55 – requires contours at 20 foot intervals for the entire tract within 100 feet.

Waiver is recommended for purposes of a use variance hearing but will be revisited at the time of site plan.

Item #73 – provide either a Letter of Interpretation (LOI) from the NJDEP verifying whether or not there are wetlands on or in close proximity to the site, or a statement or verification from a NJ licensed Surveyor or Engineer that he has reviewed wetlands inventory maps, personally visited the site, and conducted a survey to verify that there are no wetlands on or in close proximity to the site.

Waiver is recommended for purposes of a use variance hearing but will be revisited at the time of site plan.

Mrs. White moved to grant the waivers as discussed and deem the application "complete." Seconded by Mr. Nicholson.

Voting in favor: Carter, McCreery, McKeever, Nicholson, Shoultz, White, Hughes Against: 7-0-0`

➤ Public Hearing, Use Variance Application #ZB-12-01, Block 170, lot 26, 283 Clayton Aura Road, Applicant, Christopher Chapman

Mr. Chapman testified he owns the property and has cleaned it up considerably, both inside and out.

Mr. Ziegler submitted 6 photos that were labeled A#1 through A#6 of the following: 40 foot trailer removed from the site, goat shack removed from the site, 15 yards of metal ,and trash removed from the site, two photos of the improvements to the site, new landscaping, planted 15-20 trees for privacy, repaved driveway and installed a retaining wall. Mr. Chapman also proposes to install 6 foot fencing for further shielding from the roadway and neighbors.

Mr. Hughes inquired about an in-ground lift located on the property and explained the possible below ground contamination of using such a device. Mr. Chapman responded that it is still on site. He has not ever used it, has no intention of ever using it and it will not be used for his business. Mr. Hughes explained the possible below ground contamination of using such a device.

Mr. Chapman testified he does not live in the house; it is a rental that he rehabilitated. All the landscaping vehicles will be parked behind the existing metal pole barn. He is a state licensed fertilizer, herbicide & pesticide applicator. Such applications are completed one to two times a month. Fertilizer, herbicide and pesticides are not stored on the site.

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The parcel is 1.87 acres and has no intention to subdivide and not change the wooded lot area. Should the building grow, he would need to relocate. This location would be temporary and is currently seeking a new location. Mr. Chapman added he does not and would not have any customers visit the site.

Discussion followed as to the specific type of license(s) Mr. Chapman held and also the prior uses associated with this property.

A typical landscape crew would be 3 crews of 3 people each. Including him, that would be a staff of 10. He currently is working from his house and is presently looking for a new location. Mrs. Adams reminded the board, that although Mr. Chapman is looking for a new location, a variance runs with the land.

Mrs. White confirmed that the area is residential and that Mr. Chapman is requesting to park commercial vehicles on the site now making it a commercial use. She didn't feel that it fit into the area. She was also concerned for the people renting the house regarding left over pesticides that may be stored in the truck and all the traffic in and out.

Mr. McCreery inquired as to whether his business included snow removal and if so, what would the hours be. Mr. Chapman testified he does provide this service and the hours are whenever it is snows. The salt is not kept on site. They load it He has been at this location for approximately one year. There is not a restroom facility in any of the outbuildings, all landscape trimmings, clippings are taken to a disposal site at Peach Country Mulch.

Elk Township Environmental Commission submitted a memorandum dated January 30, 2013 and Mr. Chapman provided a written response on February 20, 2013 that Mr. Ziegler reviewed with the board members.

Mrs. Bruder stated she had other comments in her letter of April 5, 2012 that would be covered at the time of site plan review. All other comments have been addressed by the applicant's testimony.

Mr. Gaskill had no other comments, as his comments would be reviewed at time of site.

Mrs. White moved to open to the public, seconded by Mr. Nicholson. With all members in favor, the motion was carried.

Fred Boeckle, Ferrell Fire Chief, Elk Township, was sworn in.

Mr. Boeckle inquired that should the board grant the use variance, would this business be required to register with the Township and if so, they would be required to have an inspection by the Fire Official.

The board planner responded, "Yes." He would need to follow the procedures in place businesses.

Judy Jusko, 281 Clayton Aura Rd., Elk Township, was sworn in.

Ms. Jusko is a neighbor and is in support of the variance. She has no complaints with noise, parking or traffic in and out of the driveway. She is pleased with the clean-up Mr. Chapman has done on the property and that he is a good neighbor.

Mr. Shoultz moved to close to the public, seconded by Mr. Goss. With all members in favor, the motion was carried.

Mr. Ziegler reviewed the positive and negative criteria presented to the board of this application.

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Mr. Shoulz moved to grant the use variance, Seconded by Ed McKeever.

Mr. Hughes inquired that should the application be denied, what does the applicant do next? Mrs. Adams replied that the applicant cannot use the land in the manner for which he proposed tonight. He must discontinue the use if he is using it illegally. He can come back to the board, but the application must be "substantially" different.

Roll Call:

Voting in favor: McKeever, Shoultz

Against: Carter, McCreery, Nicholson, White, Hughes Abstain: 2-5-0

Application is denied.

> General Public Portion:

Mrs. White moved to open to the general public portion, seconded by Mr. Goss. With all members in favor, the motion was carried. With no comment from the public, the motion was carried.

> Correspondence: none.

Mrs. Adams offered to the board, a private training session since there are a few new members.

> Adjournment:

Mrs. White moved to adjourn, Seconded by Mr. McKeever. With all members in favor, the motion was carried.

Adjournment time: 10:08pm

Respectfully submitted,

Anna Foley

Board Secretary

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